

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERIC EDWARD JUELL,

Plaintiff,

CIV. NO. S-05-0378 FCD GGH

vs.

FOREST PHARMACEUTICALS,  
INC., et al.,

Defendants.

ORDER

Presently pending on this court's law and motion calendar for May 25, 2006, is defendants' motion to compel medical examination of plaintiff, filed May 9, 2006. The parties have filed a joint stipulation, acknowledging that the discovery cutoff in this case was March 3, 2006.<sup>1</sup> See Order, filed May 2, 2005, at 2. On March 24, 2006, Judge Damrell modified this scheduling order to permit defendants' disclosure of rebuttal experts by April 10, 2006, and completion of expert discovery by May 8, 2006, among other modifications. The court did not change the discovery cutoff.

Defendants claim that when they requested extension of expert discovery deadlines, they also requested leave to take the Rule 35 examination of plaintiff if necessary. The district court's order did not refer to extensions for Rule 35 examinations. Defendants claim that they originally proposed plaintiff's medical examination to plaintiff's counsel on April 12,

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<sup>1</sup> Plaintiff mistakenly refers to a discovery cutoff of March 31, 2006.

1 2006 with a proposed exam date of May 2, 2006, which they state would have complied with the  
2 modified scheduling order; however, plaintiff belatedly responded to this request and imposed  
3 several conditions.

4           The relief sought by defendants cannot be addressed by this court without further  
5 modification of the scheduling order. Rule 35 examinations were not extended by Judge  
6 Damrell's order, and the discovery cutoff passed on March 3, 2006.

7           Accordingly, IT IS ORDERED that defendants' motion to compel medical  
8 examination of plaintiff, filed May 9, 2006, is vacated from this court's May 25, 2006 calendar.

9 DATED: 5/18/06

/s/ Gregory G. Hollows

10 GREGORY G. HOLLOWS  
U. S. MAGISTRATE JUDGE

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